
Commerce & Labor Committee

HB 1485

Brief Description: Providing for payment of attorneys' fees for industrial insurance appeals.

Sponsors: Representatives Green, Conway and Williams.

Brief Summary of Bill
<ul style="list-style-type: none">• Modifies the authority of the Board of Industrial Insurance Appeals to award fees and costs in certain situations.

Hearing Date: 1/30/07

Staff: Sarah Beznoska (786-7109).

Background:

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers, in turn, are protected by the Industrial Insurance Act's (Act) exclusive remedy provisions which generally bar an employee from bringing a lawsuit against his or her employer for a workplace injury or illness that is covered by the Act.

When a decision is made about an industrial insurance claim, a worker, an employer, or a medical provider have a right to protest that decision to the Department of Labor and Industries (Department) or to file an appeal with Board of Industrial Insurance Appeals (Board). The Board is an administrative body that hears appeals from administrative agency decisions, primarily on industrial insurance, Washington Industrial Safety and Health Act citations, and crime victims' compensation. After appeal to the Board, a decision and order of the Board may be appealed to a Superior Court.

In proceedings before the Board, a worker or beneficiary has the right to be represented by an attorney, but is not required to have an attorney. The Act generally prohibits an attorney representing a worker or beneficiary in an industrial insurance claim from charging more than a reasonable fee for services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When a worker or beneficiary who is represented by an attorney appeals a Department decision to the Board and additional relief is ultimately granted, the worker, beneficiary, or attorney may submit a written request to the Board to set the amount of a reasonable fee. If a party other than the worker or beneficiary appeals a Department decision and the worker or beneficiary's right to relief is upheld by the Board, the worker, beneficiary, or attorney may submit a written request to the Board to set the amount of the reasonable fee.

Summary of Bill:

Provisions related to ordering the payment of attorneys' fees and costs of litigation are established for Board cases that involve Department decisions related to the authorization of treatment or payment for treatment.

If a Department order denying treatment or payment for treatment is reversed or modified by the Board, the Board must set the amount of reasonable attorneys' fees for the services of the workers' attorney and the Board must order reimbursement for all reasonable costs of litigation, including but not limited to fees of medical and other witnesses. In cases involving self-insured employers, the self-insured employer must pay these fees and costs. In all other cases, the fees and costs must be paid by the Department.

If a state fund or self-insured employer appeals a Department order that allows treatment or payment for treatment and the Board upholds the Department order, the Board must set the amount of reasonable attorneys' fees for the services of the workers' attorney and the Board must order reimbursement for all reasonable costs of litigation, including but not limited to fees of medical and other witnesses. The fees and costs must be paid by the state fund or self-insured employer.

In both situations, ordered payments must be made within ten days and twelve percent interest provisions apply to payments made after ten days. If fees and costs are not paid within ten days, the claimant may enforce the Board's order in court and the court is authorized to award additional attorneys' fees and costs associated with proceedings before the court.

Rules Authority: The bill does not address the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Requested on January 23, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.